



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2013-0102; Notice 2]

Morgan 3 Wheeler Limited, Grant of Petition for  
Decision of Inconsequential Noncompliance

**AGENCY:** National Highway Traffic Safety Administration (NHTSA),  
Department of Transportation (DOT)

**ACTION:** Grant of Petition

**SUMMARY:** Morgan 3 Wheeler Limited (Morgan)<sup>1</sup> has determined that certain model year (MY) 2012 and 2013 Morgan model M3W three-wheeled motorcycles, do not fully comply with paragraph S6 of Federal Motor Vehicle Safety Standard (FMVSS) No. 205, *Glazing Materials*. Morgan has filed an appropriate report dated August 6, 2013, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*.

**ADDRESSES:** For further information on this decision contact Luis Figueroa, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366-5298, facsimile (202) 366-5930.

**SUPPLEMENTARY INFORMATION:**

**I. Morgan's petition:** Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR part 556), Morgan

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<sup>1</sup> Morgan 3 Wheeler Limited is an English corporation that manufactures motor vehicles.

submitted a petition for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

Notice of receipt of the August 15, 2013, petition was published, with a 30-day public comment period, on January 14, 2014, in the Federal Register (79 FR 2507). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) website at: <http://www.regulations.gov/>. Then follow the online search instructions to locate docket number "NHTSA-2013-0102."

**II. Vehicles involved:** Affected are approximately 139 MY 2012 and 2013 Morgan model M3W three-wheeled motorcycles manufactured during the period August 1, 2012 to August 14, 2013.

**III. Noncompliance:** Morgan explains that the noncompliance is that the wind deflectors on the vehicles do not have the markings required by FMVSS No. 205.

**IV. Rule Text:** Paragraph S6 of FMVSS No. 205 requires in pertinent part:

S6.1 A prime glazing material manufacturer must certify, in accordance with 49 U.S.C. 30115, each piece of glazing material to which this standard applies that is designed—

(a) As a component of any specific motor vehicle or camper; or

(b) To be cut into components for use in motor vehicles or items of motor vehicle equipment.

S6.2 A prime glazing manufacturer certifies its glazing by adding to the marks required by section 7 of ANSI/SAE Z26.1-1996, in letters and numerals of the same size, the symbol "DOT" and a manufacturer's code mark that NHTSA assigns to the manufacturer. NHTSA will assign a code mark to a manufacturer after the manufacturer submits a written request to the Office of Vehicle Safety Compliance, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. The request must include the company name, address, and a statement from the manufacturer certifying its status as a prime glazing manufacturer as defined in S4.

S6.3 A manufacturer or distributor who cuts a section of glazing material to which this standard applies, for use in a motor vehicle or camper, must—

(a) Mark that material in accordance with section 7 of ANSI/SAE Z26.1-1996; and

(b) Certify that its product complies with this standard in accordance with 49 U.S.C. 30115.

**V. Summary of Morgan's Analyses:** Morgan stated its belief that the subject noncompliance is inconsequential to motor vehicle safety for the following reasons:

- a. The wind deflector fitted in the M3W uses glazing that conforms to item 6 ANSI 226.1-1996-windshields for motorcycles. It is so small (its dimensions are 10"x5") that it is not requisite for driving visibility.
- b. Morgan owners will go to Morgan dealers for replacement of the wind deflector.
- c. The noncompliance is not likely to increase the safety risk to individual occupants who experience the type

of injurious event against which the standard was designed to protect.

- d. There have been no reports of any safety issues. Both in the US and the rest of the world, Morgan knows of no injuries caused by the noncompliance.
- e. The subject noncompliance here is inconsequential in view of the nature of the vehicle in question because Morgan possesses attributes enumerated in several previous NHTSA inconsequential noncompliance determinations that it believes can be applied to a decision on its petition. See Morgan's petition for a complete discussion of its reasoning.

Morgan additionally stated that it shall, as regards ongoing production, mark the wind deflector to comply with the FMVSS No. 205 requirements.

In summation, Morgan believes that the described noncompliance of the subject vehicles is inconsequential to motor vehicle safety, and that its petition, to exempt from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

**VI. NHTSA Decision:** FMVSS No. 205 specifies labeling and performance requirements for automotive glazing. Section S6 of FMVSS No. 205 requires glazing material manufacturers to

certify, in accordance with 49 U.S.C. 30115, each piece of glazing material to which this standard applies. A prime glazing material manufacturer certifies its glazing by adding the marks required in Section 7 of ANSI Z26.1 (1996), the symbol "DOT" and a manufacturer's code mark assigned by the NHTSA's Office of Vehicle Safety Compliance. Section 7 of ANSI Z26.1 (1996) requires manufacturers to mark automotive glazing with the item of glazing number, e.g., "AS-1". Section 7 of ANSI Z26.1 (1996) states that the item of glazing number is to be placed in close proximity to other required markings.

According to the petition, the nature of the noncompliance is the lack of markings as required in FMVSS No. 205 and ANSI Z26.1 (1996).

NHTSA has reviewed Morgan's petition and for the reasons listed below, believes that in this case the noncompliance is inconsequential to vehicle safety.

There are two issues that are being addressed by the labeling and marking requirements of FMVSS No. 205. One is certification and the other is information on the glazing manufacturer and item of glazing.

Morgan stated that the wind deflector meets the requirements of FMVSS No. 205 (except marking requirements) for item of glazing number 6 (AS-6). In this particular situation

NHTSA will allow Morgan's certification statement a surrogate for certification labeling.

The information on the glazing manufacturer and item of glazing could be relevant during replacement of the wind deflector. The probability of obtaining unmarked glazing is nonexistent since spare glazing is to be obtained through Morgan's dealers and the noncompliant population (139 items) is already mounted on the motorcycles and sold to customers.

In addition, Morgan stated that the glazing manufacturer has taken steps to correct the problem that caused the noncompliance.

In consideration of the foregoing, NHTSA has decided that Morgan has met its burden of persuasion that the FMVSS No. 205 noncompliance is inconsequential to motor vehicle safety. Accordingly, Morgan's petition is hereby granted and Morgan is exempted from the obligation of providing notification of, and a remedy for, the subject noncompliance under 49 U.S.C. 30118 and 30120.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allows NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to

remedy the defect or noncompliance. Therefore, this decision only applies to the subject noncompliant vehicles that Morgan no longer controlled at the time it determined that the noncompliance existed. However, the granting of this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after Morgan notified them that the subject noncompliance existed.

**Authority:** (49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

Jeffrey M. Giuseppe, Acting Director  
Office of Vehicle Safety Compliance

**Billing Code:** 4910-59-P

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